

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION

FERMIN ESCOTO,

*Plaintiff,*

V.

ALFREDO DEJESUS CRUZ and BLF  
TRANSPORTATION LLC,

*Defendants.*

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Civil Action No. \_\_\_\_\_

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**DEFENDANTS ALFREDO DEJESUS CRUZ AND  
BLF TRANSPORTATION LLC’S NOTICE OF REMOVAL**

Defendants Alfredo DeJesus Cruz and BLF Transportation LLC (“BLF”) file this notice of removal under 28 U.S.C. § 1446(a) of an action pending in the 406th Judicial District Court, Webb County, Texas, entitled *Fermin Escoto v. Alfredo DeJesus Cruz and BLF Transportation LLC*, Cause No. 2021CVA002348D4, and state as follows:

**I. INTRODUCTION**

1. On December 21, 2021, Plaintiff Fermin Escoto (“Plaintiff”) filed suit against Defendants Cruz and BLF (“Defendants”). The case is styled *Fermin Escoto v. Alfredo DeJesus Cruz and BLF Transportation LLC*, Cause No. 2021CVA002348D4, in the 406th Judicial District Court of Webb County, Texas (the “State Court Action”).

2. Defendants were both served with Plaintiff’s Original Petition on January 11,

2022.<sup>1</sup> Defendants file this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b)(1). *Bd. of Regents of Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007).<sup>2</sup>

## **II. BASIS FOR REMOVAL**

3. Removal is proper because there is complete diversity of citizenship between the parties. 28 U.S.C. § 1332(a). Plaintiff is a citizen of Texas. Alfredo DeJesus Cruz is a resident and citizen of Kentucky. BLF is a Kentucky LLC and its principal place of business is at 386 Ferguson Lane, Shepherdsville, Kentucky 40165. All members of the limited liability company are residents and citizens of Kentucky. Thus, both Defendants are citizens of Kentucky. The district courts of the United States have original jurisdiction based on diversity of citizenship among the parties, in that each defendant is now, and was at the time the action was commenced, diverse in citizenship from the plaintiff.

4. The amount in controversy is greater than \$75,000, excluding interest and costs. *See* 28 U.S.C. §§ 1332(a), 1446(c)(2)(B). As explicitly stated the Plaintiff's Original Petition, "Plaintiff is seeking only monetary relief of \$250,000 or less, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs."<sup>3</sup> Additionally, Plaintiff made a settlement demand for \$150,000 on November 24, 2021 based on the alleged seriousness and extent of injuries sustained. In the demand, Plaintiff's counsel opined that "a jury would render a verdict in excess of the amount demanded." Thus, the alleged

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<sup>1</sup> A true and correct copy is attached as Exhibit "B."

<sup>2</sup> No Return of Service exists because Defendants accepted service.

<sup>3</sup> Exhibit "B" at ¶12.

damages Plaintiff has put at issue and the amount in controversy in this action exceeds \$75,000.<sup>4</sup>

5. All defendants who have been properly joined and served join in or consent to the removal of this case to federal court. 28 U.S.C. § 1446(b)(2)(A); *Cook v. Randolph Cnty.*, 573 F.3d 1143, 1150–51 (11th Cir. 2009); *Pritchett v. Cottrell, Inc.*, 512 F.3d 1057, 1062 (8th Cir. 2008); *Harper v. AutoAlliance Int’l, Inc.*, 392 F.3d 195, 201–02 (6th Cir. 2004).

6. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81 of the United States District Court for the Southern District of Texas, Defendants attach to this removal a true and correct copy of: (1) all executed process in the case; (2) pleadings asserting causes of action and all answers to such pleadings; (3) all orders signed by the state judge; (4) an index of matters being filed; and (5) a list of all counsel of record, including address, telephone numbers and the parties represented.<sup>5</sup>

7. Venue is proper in this district under 28 U.S.C. § 1441(a) because this case is pending in Webb County, Texas; however, venue is more appropriate and convenient in the Houston Division—the division where the underlying incident occurred that forms the basis of the plaintiff’s lawsuit. Defendants intend to file a motion to transfer venue under 28. U.S.C. 1404(a).

8. Defendants will promptly file a copy of this notice of removal with the clerk of the 406th Judicial District Court in Webb County, Texas.

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<sup>4</sup> See *White v. FCI USA, Inc.*, 319 F.3d 672, 675 (5th Cir. 2003) (“Normally, this burden is satisfied if the plaintiff claims a sum greater than the jurisdictional requirement.”).

<sup>5</sup> True and correct copies of which are attached hereto as Exhibits “A”–“E.”

9. Defendants requested a trial by jury in the State Court Action and the jury fee has been paid.

10. Plaintiff in the State Court Action is Fermin Escoto. He is represented by John Papapavlou (Texas Bar No. 24059061) with PM Law Firm, 19333 Highway 59 N., Ste. 190, Humble, Texas 77338, (281) 968-9529, john@pmtxlaw.com.

11. Defendants Alfredo DeJesus Cruz and BLF Transportation are the defendants in the State Court Action and are represented by Marcy Rothman (Texas Bar No. 17318500) and Scott Riddle (Texas Bar No. 24059232) of Kane Russell Coleman Logan PC, 5051 Westheimer Road, 10<sup>th</sup> Floor, Houston, Texas 77056, (713) 425-7400, mrothman@krcl.com and sriddle@krcl.com.

12. The address of the 406th Judicial District Court in Webb County, Texas is 1110 Victoria St., Suite 402, Laredo, Texas 78040.

### **III. CONCLUSION**

10. Defendants, pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. § 1446, remove this action from the 406th Judicial District Court of Webb County, Texas to the United States District Court for the Southern District of Texas.

Respectfully submitted,

**KANE RUSSELL COLEMAN LOGAN PC**

By: /s/ Marcy Lynn Rothman  
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**-and-**

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**ATTORNEYS FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on February 9, 2022, a copy of the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to counsel for Plaintiff by operation of the Court's electronic filing system, unless counsel for Plaintiff is not registered with the CM/ECF system, in which case the undersigned certifies that a copy of the foregoing document was sent to counsel for Plaintiffs via certified mail, return receipt requested.

/s/ Scott Riddle  
Scott Riddle